



Crl.M.P.(MD)No.12275 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT  
( Criminal Jurisdiction )

Monday, the Eighteenth day of November Two Thousand and Twenty Four

PRESENT

The HONOURABLE MR. JUSTICE M.NIRMAL KUMAR

Crl.M.P.(MD)No.12275 of 2024

in

Crl.O.P.(MD)No.19919 of 2024

1 K.M.PANNEERSELVAM

2 S.SUBHA SAKTHIVEL

... PETITIONERS/PETITIONERS

Vs

K.PRABHAKARAN

... RESPONDENT/RESPONDENT

Criminal Miscellaneous Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to stay of all further proceedings in complaint in STC no. 439 of 2022 on the file of the Judicial Magistrate court No.II, (Fast Track court at Magisterial Level) Madurai in so far petitioners are concerned pending disposal of the Criminal original Petition.

Prayer in CRL OP(MD). 19919/ 2024 :

To call for the records in complaint in STC no. 439 of 2022 on the file of the Judicial Magistrate court No.II (Fast track court at Magisterial Level) Madurai and quash the same as illegal in so far petitioners are concerned.

Order : This petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of Mr.V.P.RAJAN, Advocate for the petitioner, While admitting the Criminal Original Petition, the court

<https://www.mhc.tn.gov.in/judis>



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made the following order:-

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The petitioners, who are A3 and A5 in S.T.C.No.439 of 2022, a private complaint filed under Section 138 of the Negotiable Instruments Act, 1881, by the respondent/complainant, have filed this petition on two grounds. The first ground is that the complainant's own admission is that on 12.10.2021, the Company requested financial assistance of Rs.25,00,000/-, which was availed, and thereafter, the cheque dated 07.01.2022 was issued in discharge of the said liability.

2. The learned counsel for the petitioners contends that the petitioners resigned from the directorship of the Company as early as 13.09.2021, much before the loan was availed and the dishonoured cheque was issued. Furthermore, the complaint does not show that the petitioners were involved in the day-to-day affairs of the Company. In light of these facts, the case against the petitioners cannot be sustained. The learned counsel further referred to the judgment of the Hon'ble Supreme Court in S.M.S. Pharmaceuticals Ltd. v. Neeta Bhalla & Ors. reported in AIR 2005 SC 3512, wherein the Hon'ble Supreme Court held that mere repetition of certain phrases or words is insufficient. There must be more substantial evidence. In this case, it is an admitted fact that the petitioners were neither signatories to the cheque nor were they involved in the day-to-day affairs of the Company. Moreover, they had resigned from



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the Company on 13.09.2021.

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3. Considering the submissions the above said submissions, a prima facie case has been made out. Therefore, there shall be an order of interim stay of all further proceedings in S.T.C.No.439 of 2022, pending before the Judicial Magistrate Court No. II (Fast Track Court at Magisterial Level), Madurai.

4. Notice to the respondent, returnable by 10.12.2024. Private notice is also permitted.

sd/-  
18/11/2024

/ TRUE COPY /

/11/2024  
Sub-Assistant Registrar  
( C.S. I / II / III / IV )  
Madurai Bench of Madras High Court,  
Madurai - 625 023.

SMN2  
TO  
1 THE JUDICIAL MAGISTRATE NO.II,  
(FAST TRACK COURT AT MAGISTERIAL LEVEL),  
MADURAI.

2 DO THROUGH THE CHIEF JUDICIAL  
MAGISTRATE, MADURAI DISTRICT.



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ORDER

IN

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in

Crl.O.P.(MD)No.19919 of 2024

Date :18/11/2024

SA/VR/SAR. /25.11.2024/4P/3C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17/07/2023.